

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

PATRICK LONGLEY,
Plaintiff

V.

BUCHANAN MARINE LP,
Defendant

Civil Action

No. _____

MAGISTRATE JUDGE RBC

RECEIPT # _____
AMOUNT \$ N/A
SUMMONS ISSUED YES
LOCAL RULE 4.1 _____
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. FOIM
DATE 12/6/04

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Now comes the Plaintiff in the above-entitled matter and for his complaint states:

General Factual Allegations

1. The Plaintiff, Patrick Longley, is a resident of Swansea, County of Bristol, Commonwealth of Massachusetts.
2. The Defendant, Buchanan Marine LP, is a corporation, duly organized and existing under the laws of the State of Connecticut.
3. On or about July 25, 2004, the Defendant, Buchanan Marine LP, was doing business within the Commonwealth of Massachusetts.
4. During the year 2004, the Defendant, Buchanan Marine LP, was doing business within the Commonwealth of Massachusetts.
5. On or about July 25, 2004, the Plaintiff, Patrick Longley, was employed by the Defendant, Buchanan Marine LP.
6. On or about July 25, 2004, the Plaintiff, Patrick Longley, was employed by the

Defendant, Buchanan Marine LP, as a seaman, and a member of the crew of the BUCHANAN 18.

7. On or about July 25, 2004, the Plaintiff, Patrick Longley, was employed by the Defendant, Buchanan Marine LP, as a seaman, and a member of the crew of the TUG DORY BARKER.

8. On or about July 25, 2004, the Defendant, Buchanan Marine LP, owned the BUCHANAN 18.

9. On or about July 25, 2004, the Defendant, Buchanan Marine LP, owned the TUG DORY BARKER.

10. The Defendant, Buchanan Marine LP, chartered the BUCHANAN 18 from some other person or entity such that on or about July 25, 2004 the Defendant, Buchanan Marine LP was the owner pro hac vice of the BUCHANAN 18.

11. The Defendant, Buchanan Marine LP, chartered the TUG DORY BARKER from some other person or entity such that on or about July 25, 2004 the Defendant, Buchanan Marine LP was the owner pro hac vice of the TUG DORY BARKER.

12. On or about July 25, 2004, the Defendant, Buchanan Marine LP, operated the BUCHANAN 18.

13. On or about July 25, 2004, the Defendant, Buchanan Marine LP, operated the TUG DORY BARKER.

14. On or about July 25, 2004, the Defendant, Buchanan Marine LP, or the Defendant's agents, servants, and/or employees, controlled the BUCHANAN 18.

15. On or about July 25, 2004, the Defendant, Buchanan Marine LP, or the

Defendant's agents, servants, and/or employees, controlled the TUG DORY BARKER.

16. On or about July 25, 2004, the BUCHANAN 18 was in navigable waters.

17. On or about July 25, 2004, the TUG DORY BARKER was in navigable waters.

18. On or about July 25, 2004, while in the in the performance of his duties in the service of the BUCHANAN 18 and TUG DORY BARKER, the Plaintiff, Patrick Longley, sustained personal injuries.

19. Prior to and at the time he sustained the above-mentioned personal injuries, the Plaintiff, Patrick Longley, was exercising due care.

Jurisdiction

20. This Court has subject matter jurisdiction over this matter pursuant to The Merchant Marine Act of 1920, commonly called the Jones Act, 46 U.S.C., §688 et. seq.

21. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331, 28 U.S.C. §1332, and 28 U.S.C. §1333.

COUNT I

Patrick Longley v. Buchanan Marine LP

(JONES ACT NEGLIGENCE)

22. The Plaintiff, Patrick Longley, reiterates the allegations set forth in paragraphs 1 through 21 above.

23. The personal injuries sustained by the Plaintiff, Patrick Longley, were not caused by any fault on his part but were caused by the negligence of the Defendant, its agents, servants and/or employees.

24. As a result of said injuries, the Plaintiff, Patrick Longley, has suffered pain of

body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

25. This cause of action is brought under the Merchant Marine Act of 1920, commonly called the Jones Act.

WHEREFORE, the Plaintiff, Patrick Longley, demands judgment against the Defendant, Buchanan Marine LP, in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) together with interest and costs.

COUNT II

Patrick Longley v. Buchanan Marine LP

(GENERAL MARITIME LAW - UNSEAWORTHINESS)

26. The Plaintiff, Patrick Longley, reiterates the allegations set forth in paragraphs 1 through 21 above.

27. The personal injuries sustained by the Plaintiff, Patrick Longley, were due to no fault of his, but were caused by the Unseaworthiness of the BUCHANAN 18.

28. The personal injuries sustained by the Plaintiff, Patrick Longley, were due to no fault of his, but were caused by the Unseaworthiness of the TUG DORY BARKER.

29. As a result of said injuries, the Plaintiff, Patrick Longley has, suffered pain of body and anguish of mind, lost time from his usual work and pursuits, incurred medical expenses, and has sustained and will sustain other damages as will be shown at trial.

30. This cause of action is brought under the General Maritime Law for Unseaworthiness and is for the same cause of action as Count I.

WHEREFORE, the Plaintiff, Patrick Longley, demands judgment against the Defendant,

Buchanan Marine LP, in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) together with interest and costs.

COUNT III

Patrick Longley v. Buchanan Marine LP

(GENERAL MARITIME LAW - MAINTENANCE and CURE)

31. The Plaintiff, Patrick Longley, reiterates all of the allegations set forth in Paragraphs 1 through 21 above.

32. As a result of the personal injuries described in paragraph 18 above, the Plaintiff, Patrick Longley, has incurred and will continue to incur expenses for his maintenance and cure.

WHEREFORE, the Plaintiff, Patrick Longley, demands judgment against the Defendant, Buchanan Marine LP, in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) for maintenance and cure, together with costs and interest.

COUNT IV

Patrick Longley vs. Buchanan Marine LP

(GENERAL MARITIME LAW/JONES ACT - INTENTIONAL/NEGLIGENT FAILURE TO PROVIDE MAINTENANCE and CURE)

33. The Plaintiff, Patrick Longley, reiterates the allegations set forth in paragraphs 1 through 21 above.

34. As a result of the personal injuries described in paragraph 18 above, the Plaintiff, Patrick Longley, has incurred and will continue to incur expenses for his maintenance and cure.

35. The Plaintiff, Patrick Longley, has made demand upon the Defendant, Buchanan

Marine LP, for the provision of maintenance and cure.

36. The Defendant, Buchanan Marine LP, has negligently, willfully, arbitrarily, and/or unreasonably failed to provide the Plaintiff with maintenance and cure in a timely and adequate manner.


37. As a result of the Defendant's failure to provide the Plaintiff maintenance and cure, the Plaintiff has sustained and will continue to sustain damages, including without limitation, pain of body and anguish of mind, lost time from his usual work and pursuits, medical and hospital expenses, attorneys fees, and has sustained and will sustain other damages as will be shown at trial.

WHEREFORE, the Plaintiff, Patrick Longley, demands judgment against the Defendant, Buchanan Marine LP, in the amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) as compensatory damages for failure to pay maintenance and cure, together with costs, interest, and reasonable attorneys fees.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES

RAISED IN COUNTS, I, II, III AND IV.

Respectfully submitted for the
the Plaintiff, Patrick Longley,
by his attorney,



Carolyn M. Latti, BBO 567394
David F. Anderson, BBO 560994
Latti & Anderson LLP
30-31 Union Wharf
Boston, MA 02109
(617) 523-1000

Dated: 12-2-04

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Patrick Longley

(b) County of Residence of First Listed Plaintiff Bristol
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Carolyn M. Latti, BBO567394, Latti & Anderson LLP,
30-31 Union Wharf, Boston, MA 02109 (617) 523-1000

DEFENDANTS

Buchanan Marine LP

County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Jones Act, 46 USC Sec 688 et seq, 28 USC Sec 1331, 28 USC Sec 1332, 28 USC Sec 1333

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 1,100,000.00

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

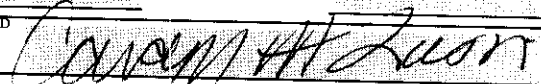
JUDGE

DOCKET NUMBER

DATE

12-2-04

SIGNATURE OF ATTORNEY OF RECORD



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Patrick Longley v. Buchanan Marine LP

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☐7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐ NO ☒A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Carolyn M. Latti, Latti & Anderson LLPADDRESS 30-31 Union Wharf, Boston, MA 02109TELEPHONE NO. (617) 523-1000